



# KANSAS

DEPARTMENT OF HUMAN RESOURCES

Jim Garner, Secretary

KATHLEEN SEBELIUS, Governor

TO: Recipient

FROM: Paula Greathouse  
Director of Workers Compensation

## **IMPORTANT INFORMATION**

Enclosed is the information you recently requested. The Division of Workers Compensation is glad to have been able to assist you in your research. However, you should be aware of the following prohibitions regarding when and how such data may be obtained and how it may be used.

**DISABILITY DISCRIMINATION LAW:** 29 CFR 1630.13(a) (appendix) states that an employer may not inquire into an applicant's workers compensation history PRIOR to making a conditional offer of employment to the individual. In addition, 29 CFR 1630.6(a) provides that it is an unlawful discriminatory practice to enter into a contractual relationship or other arrangement that has the effect of subjecting a covered employer's employees or applicants to the discrimination prohibited by the ADA. Therefore, the use of a third party to make inquiries about workers compensation histories prior to an offer of employment is prohibited.

According to the Equal Employment Opportunity Commission (EEOC) Guidance on the Americans with Disabilities Act (ADA), AFTER making a conditional job offer, employers may ask about a person's workers compensation history in a medical inquiry or examination, as long as it is required of all applicants in the same job category. 42 USC 12112(d)(3) provides that information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate files and be treated as a confidential medical record.

**If you have questions, regarding the permissible or impermissible uses of information obtained from the Division of Workers Compensation, you are strongly urged to seek legal counsel.**

DIVISION OF WORKERS COMPENSATION

800 SW Jackson Street, Suite 600, Topeka, KS 66612-1227

Phone: 785-296-2996 • Fax: 785-296-0025 • Toll Free: 1-800-332-0353 • [workerscomp@hr.state.ks.us](mailto:workerscomp@hr.state.ks.us) • [www.hr.state.ks.us/wc/html/wc.htm](http://www.hr.state.ks.us/wc/html/wc.htm)